

INTERNAL REVENUE SERVICE

Number: **INFO 2002-0051**

Release Date: 6/28/2002

CC:PSI:1-GENIN-107383-02

March 18, 2002

UILC 1362.00-00

[REDACTED]:

We are responding to your correspondence requesting relief in order to establish May 31, 2000, as the effective date for your S corporation election. The information submitted explains that the Internal Revenue Service failed to receive Form 2553 in a timely manner. The instructions to Form 2553 urge taxpayers to take care to ensure the IRS receives the election, suggesting that a certified mail receipt would serve as proof of filing. It appears that the earliest election received for your account is stamped November 2001, which was past the extended due date provided by Revenue Procedure 98-55 (March 15, 2001). In addition, the consent block on this election is unsigned, which would have deemed it incomplete. According to IRS records, notice about a missing election was sent in June 2001, which was within six months of the date the IRS received your 2000 tax return. This time frame deems you ineligible for automatic relief under Revenue Procedure 97-48. Although we are unable to respond to your request as submitted, this letter explains the remedial process.

Announcement 97-4 (copy enclosed) provides guidance on seeking relief for late S corporation elections. Generally, to request relief for a late or invalid S corporation election you must request a private letter ruling from the National Office. The procedures for requesting a ruling are set out in Revenue Procedure 2002-1 (copy enclosed). In addition, Rev. Proc. 2002-1 requires taxpayers to submit a user fee along with their ruling request. The standard user fee for a private letter ruling is \$6,000. However, taxpayers with gross income of less than \$1 million on their tax return for the last 12-month taxable period qualify for a **reduced user fee** in the amount of \$500. If you qualify for this reduced fee you must include with your request a statement verifying your 2001 gross income. Please review Appendix B of Rev. Proc. 2002-1 for a sample format for requesting a private letter ruling.

If you decide to submit a formal request for a private letter ruling, please include the proper user fee, information that substantiates your intent to be an S corporation

from the requested effective date, and refer your request to our office by adding the following to the address:

Attn: CC:PA:T
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Direct to: CC:PSI:1
Room 5002

Visit the specialized IRS website, www.irs.gov/smallbiz for information and links relating to small businesses. Additionally, you can order a single, free copy of the *Small Business Resource Guide CD-ROM*, by calling 1-800-829-3676. The CD-ROM provides critical tax information including forms, instructions, and publications, as well as valuable business information from a variety of government agencies, non-profit organizations, and educational institutions.

Please keep this letter with your tax records and feel free to provide a copy of it to your authorized representative. We hope that the above information proves helpful.

Sincerely yours,

/s/
DIANNA K. MIOSI
Chief, Branch 1
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:
Announcement 97-4
Rev. Proc. 2002-1